

BEFORE THE ALABAMA STATE BOARD OF PUBLIC ACCOUNTANCY

IN THE MATTER OF THE)
COMPLAINT AGAINST:)
W. THOMAS KING, CPA) CASE NO. 17-6
CERTIFICATE NO. 1064)
RESPONDENT.)

FINAL ORDER

THIS CAUSE came to be heard before the Alabama State Board of Public Accountancy ("the Board"), on May 12, 2017, in Montgomery, Alabama. Mr. W. Thomas King offered a signed Consent Agreement and Waiver, which was ACCEPTED by the Board and is incorporated herein by reference.

It is therefore ORDERED, ADJUDGED and DECREED by the Board that the provisions set forth in the aforesaid Consent Agreement are hereby approved and that the terms and conditions thereof shall become effective immediately.

DONE this 22nd day of May 2017.

ALABAMA STATE BOARD OF PUBLIC ACCOUNTANCY

CONCUR:

MS. SHEPPARD-HARRIS, MESSRS.,
COMER, SINGLETARY, BARRANCO,
and MADISON

RECUSED:

MR. BLACKMON

ATTEST:



D. Boyd Busby, CPA
Executive Director
May 22, 2017

BEFORE THE ALABAMA STATE BOARD OF PUBLIC ACCOUNTANCY

| | | |
|------------------------|---|---------------|
| IN THE MATTER OF |) | |
| THE COMPLAINT AGAINST: |) | |
| W. THOMAS KING, CPA |) | CASE NO. 17-6 |
| CERTIFICATE NO. 1064 |) | |
| |) | |
| RESPONDENT. |) | |



CONSENT AGREEMENT

The Alabama State Board of Public Accountancy, ("Board"), having evidence that W. Thomas King (Respondent) is in violation of the Board's *Rules of Professional Conduct* governing the Accounting Profession, specifically, Rule 30-X-6-.03(1)(a) (*Professional Competence*), Rule 30-X-6-.03(1)(b) (*Due Professional Care*), Rule 30-X-6-.03(1)(d) (*Sufficient Relevant Data*), Rule 30-X-6-.03(3) (*Accounting Principles*), and Rule 30-X-6-.05(1) (*Conduct Discreditable to the Public Accounting Profession*), and Respondent, desiring to avoid the necessity of a formal hearing, does hereby enter into this Consent Agreement. By waiver dated March 7 _____, 2017 (attached), Respondent acknowledged his understanding that he had a right to a formal hearing in this matter, and by his signature, knowingly waived such right.

ALLEGATIONS

The investigative committee of the Board hereby proffers the following charges and factual allegations in support of this Consent Agreement.

1. Respondent, W. Thomas King, is a Certified Public Accountant in the State of Alabama, and was so registered at all times relevant to this complaint.
2. Respondent is the Resident Manager of W. Thomas King CPA.
3. Respondent undertook to prepare for D & J Enterprises, Inc. 401(k) Profit Sharing Plan, an audit report for the year ending December 31, 2011, of that company for submission to the United States Department of Labor in compliance with the Employee Retirement Income

Security Act. Respondent subsequently prepared and submitted to the Department of Labor documents comprising an audit report intended to be considered as compliance with this act.

4. The audit report submitted was inadequate in that it reflected a lack of the professional competence required of a certified public accountant; a lack of the due professional care required of a certified public accountant; a lack of sufficient relevant data obtained by the certified public accountant; a lack of compliance with the applicable generally accepted accounting principles promulgated by the American Institute of Certified Public Accountants; and conduct discreditable to the public accounting profession.

5. On October 12, 2016, the Respondent entered into a Settlement Agreement between The Professional Ethics Committee of the American Institute of Certified Public Accountants and the Alabama Society of CPAs (attached).

STIPULATIONS

6. The Board has acquired and maintains jurisdiction over Respondent by virtue of the licensing and disciplinary provisions governing the Public Accounting Profession, *Code of Alabama 1975, § 34-1-1 et seq.*

7. Respondent has been fully advised of his rights in this matter, including the right to a fair hearing pursuant to the Alabama Administrative Procedure Act, *Code of Alabama 1975, § 41-22-20, et seq.* and *Code of Alabama 1975, § 34-1-1 et seq.*

8. Respondent understands that by submitting to this Consent Agreement he is waiving his rights as set forth herein, thus enabling the Board to adopt and enter this Consent Agreement without further process.

9. Respondent understands that the terms of this Consent Agreement are subject to adoption or rejection by the Board. It is understood that, in deciding whether to enter into the Consent Agreement, the Board may receive oral and/or written communications from its

staff, experts, attorney, or others regarding the allegations set forth above. Such communications shall not disqualify the Board, staff, experts, attorney, or others from participating in this or other matters affecting Respondent, including a hearing, if necessary, on the underlying charges, which provide the basis for this Consent Order.

10. If it is determined by the Board or its staff that Respondent has not fully complied with the terms and conditions of this Consent Agreement, Respondent understands that the Board may file a formal complaint and hold a disciplinary hearing against Respondent on the charges or factual allegations recited herein.

ORDER

Based upon the above referenced Allegations and Stipulations and Waiver attached hereto, Respondent stipulates that the Board may enter the following disciplinary order. The Board hereby censures the Respondent. In addition, Respondent agrees to pay within 30 days of the execution of this agreement an administrative fine to the Board by cashier's check or money order in the amount of \$1,000 per violation for a total of \$5,000.

FOR THE BOARD

4/14/17
DATE

Billington M. Garrett
BILLINGTON M. GARRETT, Esq.
Assistant Attorney General, Office of the
Attorney General

FOR THE RESPONDENT

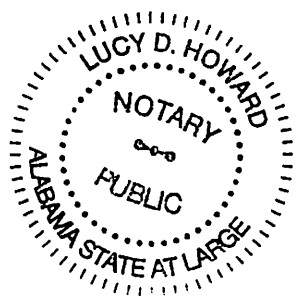
3/7/17
DATE

W Thomas King
W. THOMAS KING
Irving Silver
Attorney for the Respondent

State of Alabama

County of Mobile

Subscribed and sworn to before me, a Notary Public on this 7th day of March, 2017.



Lucy D. Howard
Notary Public
My Commission Expires: 12/29/18

WAIVER

I have read the Consent Agreement set forth above and understand and agree to the terms and conditions set forth therein. I understand that I am waiving certain rights accorded to me by the Alabama Administrative Procedure Act, *Code of Alabama* 1975, § 41-22-1 et seq., and the Public Accountancy Act of 1973, *Code of Alabama* 1975, § 34-1-1 et seq., including the right to a hearing in this matter, the right to confront and cross examine witnesses who would testify against me, the right to testify and contest the charges and allegations which could be brought against me, the right to petition for reconsideration of the Board's decision and the right to seek review of that decision by the Courts of this State. I understand that by entering into this Consent Agreement I am enabling the Board to issue an order imposing upon me the conditions recited herein without further process or proceedings. I knowingly and intelligently waive all of the above rights and any other rights which may be accorded to me by the Alabama Administrative Procedure Act, *Code of Alabama* 1975, § 41-22-1 et seq., the Public Accountancy Act of 1973, *Code of Alabama* 1975, § 34-1-1 et seq., or other laws. I further understand that, if it is determined by the Board or its staff that I have not fully complied with the terms and conditions of the above Consent Agreement, the Board may file a formal complaint and hold a disciplinary hearing against me based upon the allegations recited in the Consent Agreement.

3/7/17
DATE

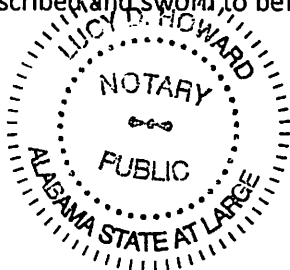
3-7-17
DATE

W Thomas King
W. THOMAS KING

[Signature]
WITNESS

State of Alabama
County of Mobile

Subscribed and sworn to before me, a Notary Public on this 7th day of March, 2017.



Lucy D. Howard
Notary Public
My Commission Expires: 2/28/18

**AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS
DIVISION OF PROFESSIONAL ETHICS
NONNEGOTIABLE
SETTLEMENT AGREEMENT**

In the Matter of:

William Thomas King, CPA

AUTHORITY

The Professional Ethics Executive Committee of the American Institute of Certified Public Accountants (AICPA) and the Alabama Society of CPAs Professional Ethics Committee, hereinafter called the Ethics Charging Authority (ECA), enter into this settlement agreement pursuant to the authority granted in the bylaws of the respective organizations.

FINDINGS OF FACT/JURISDICTION

1. Mr. King is a member of the AICPA and the Alabama Society of CPAs, and the ECA has jurisdiction in this matter.
2. Mr. King's address on the records of the AICPA and Alabama Society of CPAs is:

4317 Midmost Drive, Suite D
Mobile, AL 36609-5507

SPECIFIC CHARGES

1. A referral from the U.S. Department of Labor's Employee Benefits Security Administration was received by the ECA alleging a potential disciplinary matter with respect to Mr. King's performance of professional services on the audit of the financial statements of the D & J Enterprises, Inc. 401(k) Profit Sharing Plan as of and for the year ended December 31, 2011.
2. The ECA informed Mr. King: (1) of the rules of conduct that would be the subject of the investigation, (2) of his right to defer an investigation in the event the issues involved were concurrently the subject of litigation, (3) that information arising from an investigation may form the basis for charges to be made against him, and (4) that information regarding this settlement will be made available to the governmental agency or other authority that filed the complaint.
3. The ECA has reviewed the findings of the U.S. Department of Labor's Employee Benefits Security Administration and Mr. King's responses to such findings as well as other relevant documents Mr. King submitted to support his response, including the auditor's report, financial statements, and working papers.

4. Based on this information, there appears to be prima facie evidence of violations by Mr. King of Rule 201 – General Standards, A. *Professional Competence*; Rule 202 – Compliance with Standards; Rule 203 – Accounting Principles; and Rule 501, Interpretation 501-5 – Failure to follow requirements of governmental bodies, commissions, or other regulatory agencies of the AICPA and the Alabama Society of CPAs codes of professional conduct as follows:

Rule 201 – General Standards, A. *Professional Competence*

The auditor undertook an engagement that he could not reasonably expect to complete in accordance with professional standards.

Rule 202 – Compliance with Standards

1. The auditor failed to obtain sufficient appropriate audit evidence to support the opinion on the financial statements in the areas of participant data and participant accounts [SAS 106; AU §326; AICPA Audit and Accounting Guide - Employee Benefit Plans (“AAG-EBP”) 10.04-.06; 10.15-.16; 10.21].
2. The original auditor’s report reflected a modified opinion on a full scope audit, whereas a limited scope report should have been issued as permitted by DOL regulations (SAS 58, 64, 79, 85, 93, 98; AU §508.26; AAG-EBP 13.37).
3. The original auditor’s report fails to identify the supplementary schedule subject to audit, express an opinion on the schedule, and the degree of responsibility taken with respect to it (SAS 119; AU §551.06, .12-.14, AAG-EBP 13.08-.11; SAS 118; AU §550.04, .07).
4. The revised auditors report inappropriately states that the December 31, 2010 statement of net assets available for benefits was compiled. The firm audited the plan in the prior year (SAS 26, 35, 72; AU §504.14-.17, AAG-EBP 13.43).

Rule 203 – Accounting Principles

1. The original statement of net assets available for benefits was not comparative (FASB ASC 205-10-45).
2. The original financial statements did not classify participant loans as notes receivable from participants (FASB ASC 962-310-35).
3. The original financial statements failed to disclose the following:
 - a) For assets and liabilities measured at fair value on a recurring basis, disclosures required by FASB ASC 820-10-50;
 - b) Identification of investments that represent 5 percent or more of total net assets, as applicable for the plan (FASB ASC 962-205-50); and
 - c) Required disclosures for fully benefit-responsive investment contracts (FASB ASC 962-325-50).

4. The original and revised financial statements failed to disclose the following:
 - a) Material party-in-interest transactions (FASB ASC 850-10-50); and
 - b) Information regarding risk and uncertainties arising from all financial instruments (FASB ASC 825-10-50).

Rule 501, Interpretation 501-5 – Failure to follow requirements of governmental bodies, commissions, or other regulatory agencies

1. The supplemental schedule of assets held at end of year attached to both the original and revised financial statements did not identify all parties-in-interest as required by DOL 29 CFR 2520.103-10.
2. As the partner responsible for his firm's peer review compliance, Mr. King failed to ensure it complied with state board requirements, and those of the AICPA and Alabama Society of CPAs to have his firm undergo a peer review that included a review of his employee benefit plan practice.

AGREEMENT

In consideration of the ECA forgoing further investigation of Mr. King's conduct as described above and in consideration of the ECA forgoing any further proceedings in the matter, Mr. King agrees as follows:

- a. To waive his rights to further investigation of this matter in accordance with the Joint Ethics Enforcement Program (JEEP) *Manual of Procedures*.
- b. To waive his rights to a hearing under AICPA bylaws section 7.4. and Article IX of the bylaws of the Alabama Society of CPAs.
- c. To neither admit nor deny the above specified charges.
- d. To his expulsion from membership in the AICPA and the Alabama Society of CPAs as of the effective date of this agreement.
- e. That the ECA shall provide a copy of this settlement agreement to the AICPA's Peer Review Division staff, his peer review administering entities and his firm's peer reviewer.
- f. That the ECA shall publish his name, the name of his firm, the charges, and the terms of this settlement agreement.

EFFECTIVE DATE

This agreement is effective on the latest date shown on the last page of this agreement.

SIGNATURES

I, William Thomas King, CPA, hereby consent and agree to the findings of fact, jurisdiction, terms, and conditions of the settlement agreement.

Signed William Thomas King, CPA 10/10/16
William Thomas King, CPA Date

FOR THE ETHICS CHARGING AUTHORITY

Signed _____
For AICPA Professional Ethics Division Date

Signed Ray S. Ayl, Chair Ethics Committee 8-10-16
For Alabama Society of CPAs Date

Signed _____
For AICPA Trial Board Division Date

SIGNATURES

I, William Thomas King, CPA, hereby consent and agree to the findings of fact, jurisdiction, terms, and conditions of the settlement agreement.

Signed _____

William Thomas King, CPA

Date

FOR THE ETHICS CHARGING AUTHORITY

Signed *Don L. Bule*

For AICPA Professional Ethics Division

 9.12.2016

Date

Signed _____

For Alabama Society of CPAs

Date

Signed *[Signature]*

For AICPA Trial Board Division

 10.12.2016

Date